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**PATAGONIA, INC.**

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION – LOS ANGELES**

## PATAGONIA, INC.,

Case No. 2:18-cv-03868 FMO (RAOx)

Plaintiff,

**FINAL JUDGMENT AND  
PERMANENT INJUNCTION AS  
TO APRIL FREY**

V.

APRIL FREY,

## Defendant.

Plaintiff Patagonia, Inc. (“Patagonia”) has filed a Complaint alleging counterfeiting, trademark infringement, unfair competition, and copyright infringement under federal law against co-defendant April Frey. Ms. Frey has imported, promoted, distributed, offered, and sold apparel products, bearing one or more identical or substantially indistinguishable imitations of Patagonia’s federally registered marks (the “Counterfeit Products”) using social media, including Facebook user accounts or Facebook Groups. Ms. Frey consents to entry of judgment and permanent injunction to resolve this matter.

The Court now enters final judgment based upon the following undisputed facts. Each party has waived the right to appeal from this final judgment and each party will bear its own fees and costs in connection with this action.



1      **I. FACTS AND CONCLUSIONS**

2            A. This Court has subject matter jurisdiction over this lawsuit and personal  
3 jurisdiction over Ms. Frey. Venue is proper in this Court.

4            B. Patagonia owns numerous registrations for the PATAGONIA trade-  
5 mark, and for its distinctive logo depicting the Mt. Fitz Roy skyline (the “Fitz Roy  
6 Design”), for a wide ranging assortment of products. Among these are the  
7 following U.S. trademark registrations:

Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
PATAGONIA	1189402/ Feb. 9, 1982	Men's and Women's Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear.	08/1974
	1294523/ Sept. 11, 1984	Men's, Women's and Children's Clothing- Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts	08/1974-1981
	1775623/ June 8, 1993	Luggage back packs, and all-purpose sports bags	08/1988
PATAGONIA	1811334/ Dec. 14, 1993	Luggage, back packs, fanny packs and all-purpose sport bags, footwear, ski bags and ski gloves	08/1990
PATAGONIA	2260188/ July 13, 1999	Computerized on-line ordering activities in the field of clothing and accessories; Providing information in the field of technical clothing and accessories for use in	10/1995

1 2 <b>Trademark</b>	3 4 <b>Reg. No. /</b> <b>Reg. Date</b>	5 6 <b>Goods</b>	7 8 <b>Date of</b> <b>First Use</b>
		recreational, sporting and leisure activities; providing information in the field of existing and evolving environmental issues	
9 10 <b>PATAGONIA.COM</b>	11 12 2392685/ Oct. 10, 2000	13 14 On-line retail store and mail order services featuring technical clothing, footwear, and accessories; Computer services in the nature of on-line information related to the environment and clothing	15 16 10/1995
17 18 <b>PATAGONIA</b>	19 20 2662619/ Dec. 17, 2002	21 22 Retail store services featuring clothing, footwear, luggage and a wide variety of sporting goods and accessories	23 24 06/1986

15 These registrations for the PATAGONIA mark and logos are in full force and effect.  
 16 The registrations have become contestable under 15 U.S.C. § 1065. Collectively,  
 17 these marks, Patagonia's other registered trademarks, and its common law marks are  
 18 referred to as the "PATAGONIA trademarks." A color image of the Fitz Roy  
 19 Design follows:



26 C. Ms. Frey imported, promoted, distributed, offered, and sold Counterfeit  
 27 Products bearing reproductions of the PATAGONIA trademarks.

28 / / /



1           **II. PERMANENT INJUNCTION AND AWARD**

2           It is hereby ordered and adjudged as follows:

3           A. Commencing as of the “So Ordered” date of this Final Judgment and  
4 Permanent Injunction, Ms. Frey, her agents, employees, attorneys, successors,  
5 assigns, affiliates, joint ventures, and any person(s) in active concert or participation  
6 with her, and/or any person(s) acting for, with, by, through, or under her control  
7 who receive actual notice of this Order, are hereby permanently enjoined and  
8 restrained, anywhere in the world, directly or indirectly, from doing, authorizing or  
9 procuring any persons to do any of the following:

10           1. Manufacturing, producing, sourcing, importing, selling, offering  
11 for sale, distributing, advertising, or promoting any goods or services that bear  
12 reproductions of the PATAGONIA Trademarks;

13           2. Manufacturing, producing, sourcing, importing, selling, offering  
14 for sale, distributing, advertising, or promoting any goods or services that display  
15 any words or symbols that so resemble the PATAGONIA trademarks as to be likely  
16 to cause confusion, mistake, or deception, on or in connection with any product that  
17 is not authorized by or for Patagonia;

18           3. Using any word, term, name, symbol, device, or combination  
19 thereof that causes or is likely to cause confusion, mistake, or deception as to the  
20 affiliation or association of Ms. Frey or her products with Patagonia or as to the  
21 origin of Ms. Frey’s goods, or any false designation of origin, false or misleading  
22 description or representation of fact, or any false or misleading advertising;

23           4. Further infringing the rights of Patagonia in and to its  
24 PATAGONIA trademarks, or otherwise damaging Patagonia’s goodwill or business  
25 reputation;

26           5. Further infringing Patagonia’s copyright rights, including its  
27 rights in the Fitz Roy Design, or otherwise infringing any of Patagonia’s rights  
28 under the Copyright Act and any other source of federal or state law;



6. Otherwise competing unfairly with Patagonia in any manner; and
7. Assisting, aiding or abetting any person or entity engaging in or performing any act prohibited by this paragraph.

B. This is a final judgment as to all claims asserted against Ms. Frey related to the Counterfeit Products, sold prior to the date of entry of this Final Judgment and Permanent Injunction. Both parties shall bear their own costs.

C. If Ms. Frey is found to be in contempt of this injunction by a court of law, she agrees that she will pay to Patagonia a liquidated penalty in an amount no less than \$15,000.00 as liquidated damages, plus any other non-duplicative penalties or damages arising from the contempt.

D. If Patagonia commences an action for enforcement of this Judgment, the prevailing party shall be awarded reasonable attorneys' fees and costs from the other party for both the action enforcing this Judgment and the underlying litigation.

Dated: August 29, 2018

*/s/*  
Hon. Fernando M. Olguin  
United States District Judge

